IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 4133 OF 2006

Smt. Sulabha Subhash Relekar ..... Applicant

Versus

Shri Prabhakar Vinayak Kolambekar ..... Respondents and others.

Mr. Prakash Mahadik for the Applicant

Mr. S.R. Borulkar, Public Prosecutor for the Respondents

CORAM : A.S. OKA, J.

DATE : 5TH DECEMBER 2006

P.C.

1) Heard learned Advocate for the Applicant in support of the prayer for grant of leave. The acquittal of the Respondent Nos.1 and 2 is for the offence punishable under Section 29 of The Maharashtra Rent Control Act, 1999. The allegation of the Applicant who is the original complainant is that she is the tenant of a residential premises owned by the 1st and 2nd Respondents. The allegation is that the 1st and 2nd Respondents disconnected electricity supply

to the tenement occupied by the Applicant.

2) The acquittal of the 1st and 2nd Respondent is on the ground that the applicant has failed to lead evidence to show that she is the tenant in respect of the premises in question.

3) The learned Advocate for the applicant submitted that the 1st and 2nd Respondents have filed a suit for eviction against the applicant's mother and in the said suit, the applicant's mother has taken up a stand that she is not the tenant but the Applicant is the tenant. He submitted that the applicant could not lead evidence to establish the tenancy and therefore, the case be remanded to the Trial Court.

4) I have considered the submissions. The cross examination of the applicant shows that she was unsure as to who was the tenant in respect of the suit premises. At one place she denied that her mother was the tenant. However, she asserted that her mother acquired the premises on tenancy basis. She admitted that she has not produced any evidence to show that she was the tenant of the premises in question.

5) The learned Trial Judge has held that the applicant has failed to establish that she was the tenant in respect of the premises in question. Considering the evidence adduced by the Applicant, it

is obvious that the view taken by the Trial Judge is a possible view. No case is made out for grant of leave. Application is rejected.

6) It is made clear that the observations which is made in this order are for limited purpose of considering the prayer for grant of leave. The observations made herein shall not be construed as any expression of opinion as regards the tenancy claimed by the Applicant and nothing stated in the order will affect the pending proceedings in the Civil Court.

(A.S. OKA, J.)